

Notice of Allowability

Application No.

10/661,620

Examiner

Richard A Rosenberger

Applicant(s)

KOMATSU ET AL.

Art Unit

2877

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to the preliminary amendment filed 10/28/2003.
2. ☒ The allowed claim(s) is/are 1-16.
3. ☒ The drawings filed on 09/15/2003 are accepted by the Examiner.
4. ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 - a) ☐ All b) ☐ Some* c) ☒ None of the:
 1. ☒ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).
 - * Certified copies not received: _____.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.
THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.

5. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
6. ☐ CORRECTED DRAWINGS (as "replacement sheets") must be submitted.
 - (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached
 - 1) ☐ hereto or 2) ☐ to Paper No./Mail Date _____.
 - (b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date _____.

Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
7. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

Attachment(s)

1. ☐ Notice of References Cited (PTO-892)
2. ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3. ☒ Information Disclosure Statements (PTO-1449 or PTO/SB/08),
Paper No./Mail Date 9/15/03; 10/21/03; 10/28/03
4. ☐ Examiner's Comment Regarding Requirement for Deposit
of Biological Material
5. ☐ Notice of Informal Patent Application (PTO-152)
6. ☐ Interview Summary (PTO-413),
Paper No./Mail Date _____.
7. ☐ Examiner's Amendment/Comment
8. ☒ Examiner's Statement of Reasons for Allowance
9. ☐ Other _____.

The following is an examiner's statement of reasons for allowance:

The art does not teach or suggest the total combinations claimed. In particular, the art does not teach or suggest combining with a logical OR a plurality of sets of detection information ... based upon an image of the surface formed by condensing specific diffracted light from the surface of the test piece under each of a plurality of different inspection conditions. Thus independent claims 1, 8, 9, 11 and 12, which claims this obtaining and combining of images based on diffracted light under a plurality of different inspection conditions, and the claims dependent therefrom, are allowable. The combination of claim 10, which combines tests based on illumination from a first means at variable first angle of incidence and on a slit illumination directed to the object at an angle of incidence greater than the first angle, is also not shown by the art and is thus allowable.

Aiyer et al (5,777,729) shows inspecting by obtaining an image based upon diffracted light; it does not teach obtaining a plurality of such diffracted light images under a plurality of different inspection conditions, and does not teach or suggest combining such images using a logical OR.

The information disclosure statement filed 28 October 2003 is a duplicate of that filed 21 October 2003. the reference cited thereon was considered with the first information disclosure statement.

Haga (US 5,497,234), Uchida et al (US 4,881,268), Paul et al (US 6,166,393), Vaez-Iravani (US, 6,201,601) and Yonezawa (US 6,222,624) shows combining

information from optical tests based upon different inspection conditions such as different angles and wavelengths, but do not teach the specific details claimed.

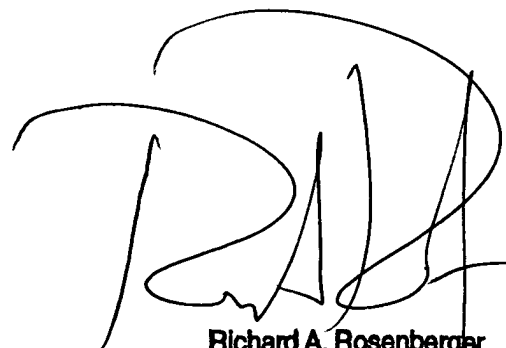
Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

Papers related to this application may be submitted to Group 2800 by facsimile transmission. The faxing of such papers must conform to the notice published in the Official Gazette, 1096 OG 30 (15 November 1989). The fax number is (703) 872-9306

Any inquiry concerning this communication or earlier communications from the examiner should be directed to R. A. Rosenberger whose telephone number is (571) 272-2428.

Any inquiry of a general nature or relating to the status of this application should be directed to the Group receptionist whose telephone number is (703) 308-0956.

R. A. Rosenberger
12 March 2004



Richard A. Rosenberger
Primary Examiner